

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)

LORETTE MARIE LABATAILLE, M.D.)

Case No. 800-2015-011256

Physician's and Surgeon's)
Certificate No. G24040)

Respondent)

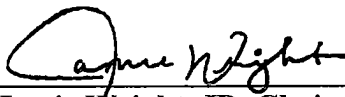
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 17, 2017.

IT IS SO ORDERED: July 18, 2017.

MEDICAL BOARD OF CALIFORNIA



Jamie Wright, JD, Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
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Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **LORETTE MARIE LABATAILLE, M.D.**
12 **Redwood Psychalliance Inc.**
13 **1101 College Ave Ste 230**
14 **Santa Rosa, CA**
15 **Physician's and Surgeon's Certificate No.**
G24040

16 Respondent.

Case No. 800-2015-011256

OAH No. 2017010365

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
22 Board of California ("Board"). She brought this action solely in her official capacity and is
23 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Greg
24 W. Chambers, Deputy Attorney General.

25 2. Respondent Lorette Marie Labataille, M.D. ("Respondent") is represented in this
26 proceeding by attorney Sharon Barclay Kime, whose address is: Pacific West Law Group, LLP,
27 1000 Fourth Street, Suite 800, San Rafael, CA 94901, telephone number (415) 789-9006.

3. On or about February 16, 1973, the Board issued Physician's and Surgeon's Certificate No. G24040 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-011256, and will expire on November 30, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-011256 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 20, 2016. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-011256 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-011256. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-011256, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate G24040.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complaint could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges. Respondent agrees that if she ever petitions for revocation of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No.800-2015-011256 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (“PDF”) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G24040 issued
3 to Respondent Lorette Marie Labataille, M.D. is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for thirty-five (35) months on the following terms and
5 conditions.

6 1. **EDUCATION COURSE.** Within sixty (60) calendar days of the effective date of this
7 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
8 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
9 hours per year, for each year of probation. The educational program(s) or course(s) shall be
10 aimed at correcting any areas of deficient practice or knowledge, focusing on telehealth and
11 prescribing, and shall be Category I certified. The educational program(s) or course(s) shall be at
12 Respondent's expense and shall be in addition to the Continuing Medical Education ("CME")
13 requirements for renewal of licensure. Following the completion of each course, the Board or its
14 designee may administer an examination to test Respondent's knowledge of the course.
15 Respondent shall provide proof of attendance for sixty-five (65) hours of CME of which forty
16 (40) hours were in satisfaction of this condition.

17 2. **PRESCRIBING PRACTICES COURSE.** Within sixty (60) calendar days of the
18 effective date of this Decision, Respondent shall enroll in a course in prescribing practices
19 approved in advance by the Board or its designee. Respondent shall provide the approved
20 course provider with any information and documents that the approved course provider may
21 deem pertinent. Respondent shall participate in and successfully complete the classroom
22 component of the course not later than six (6) months after Respondent's initial enrollment.
23 Respondent shall successfully complete any other component of the course within one (1)
24 year of enrollment. The prescribing practices course shall be at Respondent's expense and
25 shall be in addition to the Continuing Medical Education ("CME") requirements for renewal
26 of licensure.

27 A prescribing practices course taken after the acts that gave rise to the charges in
28 the Accusation, but prior to the effective date of the Decision may, in the sole discretion

1 of the Board or its designee, be accepted towards the fulfillment of this condition if the
2 course would have been approved by the Board or its designee had the course been taken
3 after the effective date of this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than fifteen (15) calendar days after successfully completing the course,
6 or not later than fifteen (15) calendar days after the effective date of the Decision,
7 whichever is later

8 3. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the
9 effective date of this Decision, Respondent shall enroll in a course in medical record keeping
10 approved in advance by the Board or its designee. Respondent shall provide the approved
11 course provider with any information and documents that the approved course provider may
12 deem pertinent. Respondent shall participate in and successfully complete the classroom
13 component of the course not later than six (6) months after respondent's initial enrollment.
14 Respondent shall successfully complete any other component of the course within one (1)
15 year of enrollment. The medical record keeping course shall be at respondent's expense and
16 shall be in addition to the CME requirements for renewal of Licensure.

17 A medical record keeping course taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
19 Board or its designee, be accepted towards the fulfillment of this condition if the course
20 would have been approved by the Board or its designee had the course been taken after the
21 effective date of this Decision.

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than fifteen (15) calendar days after successfully completing the course,
24 or not later than fifteen (15) calendar days after the effective date of the Decision, whichever
25 is later.

26 4. MONITORING - PRACTICE. Within thirty (30) calendar days of the effective date
27 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
28 practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons

1 whose licenses are valid and in good standing, and who are preferably American Board of
2 Medical Specialties ("ABMS") certified. A monitor shall have no prior or current business or
3 personal relationship with Respondent, or other relationship that could reasonably be expected to
4 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
5 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
6 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

7 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
8 and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt
9 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a
10 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
11 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
12 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
13 with the signed statement for approval by the Board or its designee.

14 Within sixty (60) calendar days of the effective date of this Decision, and continuing
15 throughout probation, Respondent's practice shall be monitored by the approved monitor for a
16 period of one (1) year. Respondent shall make all records available for immediate inspection and
17 copying on the premises by the monitor at all times during business hours and shall retain the
18 records for the entire term of probation.

19 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the
20 effective date of this Decision, Respondent shall receive a notification from the Board or its
21 designee to cease the practice of medicine within three (3) calendar days after being so notified.
22 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring
23 responsibility.

24 The monitor(s) shall submit a quarterly written report to the Board or its designee which
25 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
26 are within the standards of practice of medicine, and whether Respondent is practicing medicine
27 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
28 quarterly written reports to the Board or its designee within ten (10) calendar days after the end of

1 the preceding quarter.

2 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
3 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
4 the name and qualifications of a replacement monitor who will be assuming that responsibility
5 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
6 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
7 shall receive a notification from the Board or its designee to cease the practice of medicine within
8 three (3) calendar days after being so notified Respondent shall cease the practice of medicine
9 until a replacement monitor is approved and assumes monitoring responsibility.

10 In lieu of a monitor, Respondent may participate in a professional enhancement
11 program approved in advance by the Board or its designee, that includes, at minimum,
12 quarterly chart review, semi-annual practice assessment, and semi-annual review of
13 professional growth and education. Respondent shall participate in the professional
14 enhancement program at Respondent's expense during the term of probation.

15 5. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
16 telehealth practice. Within sixty (60) days of the effective date of this Decision, all patients being
17 treated by the Respondent shall be notified that the Respondent is prohibited from telehealth
18 practice. Any new patients must be provided this notification at the time of their initial
19 appointment.

20 Respondent shall maintain a log of all patients to whom the required oral notification was
21 made. The log shall contain the: 1) patient's name, address and phone number; patient's medical
22 record number, if available; 3) the full name of the person making the notification; 4) the date the
23 notification was made; and 5) a description of the notification given. Respondent shall keep this
24 log in a separate file or ledger, in chronological order, shall make the log available for immediate
25 inspection and copying on the premises at all times during business hours by the Board or its
26 designee, and shall retain the log for the entire term of probation.

27 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
28 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

1 Chief Executive Officer at every hospital where privileges or membership are extended to
2 Respondent, at any other facility where Respondent engages in the practice of medicine,
3 including all physician and locum tenens registries or other similar agencies, and to the Chief
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
6 fifteen (15) calendar days.

7 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8 7. SUPERVISION OF PHYSICIAN ASSISTANTS and ADVANCES PRACTICE
9 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
10 advances practice nurses.

11 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
12 governing the practice of medicine in California and remain in full compliance with any court
13 ordered criminal probation, payments, and other orders.

14 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
15 under penalty of perjury on forms provided by the Board, stating whether there has been
16 compliance with all the conditions of probation.

17 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
18 of the preceding quarter.

19 10. GENERAL PROBATION REQUIREMENTS.

20 Compliance with Probation Unit

21 Respondent shall comply with the Board's probation unit and all terms and conditions of
22 this Decision.

23 Address Changes

24 Respondent shall, at all times, keep the Board informed of Respondent's business and
25 residence addresses, email address (if available), and telephone number. Changes of such
26 addresses shall be immediately communicated in writing to the Board or its designee. Under no
27 circumstances shall a post office box serve as an address of record, except as allowed by Business
28 and Professions Code section 2021(b).

1 Place of Practice

2 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
3 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
4 facility.

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

9 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
10 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
11 (30) calendar days.

12 In the event Respondent should leave the State of California to reside or to practice
13 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
14 dates of departure and return.

15 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
16 available in person upon request for interviews either at Respondent's place of business or at the
17 probation unit office, with or without prior notice throughout the term of probation.

18 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
19 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
20 more than thirty (30) calendar days and within fifteen (15) calendar days of respondent's
21 return to practice. Non-practice is defined as any period of time respondent is not practicing
22 medicine as defined in Business and Professions Code sections 2051 and 2052 for at least
23 forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or
24 other activity as approved by the Board. If respondent resides in California and is considered
25 to be in non-practice, respondent shall comply with all terms and conditions of probation. All
26 time spent in an intensive training program which has been approved by the Board or its
27 designee shall not be considered non-practice and does not relieve respondent from
28 complying with all the terms and conditions of probation. Practicing medicine in another state

1 of the United States or Federal jurisdiction while on probation with the medical licensing
2 authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered
3 suspension of practice shall not be considered as a period of non-practice.

4 In the event Respondent's period of non-practice while on probation exceeds eighteen
5 (18) calendar months, respondent shall successfully complete the Federation of State Medical
6 Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence
7 assessment program that meets the criteria of Condition 18 of the current version of the
8 Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to
9 resuming the practice of medicine.

10 Respondent's period of non-practice while on probation shall not exceed two (2) years.

11 Periods of non-practice will not apply to the reduction of the probationary term. Periods
12 of non-practice for a respondent residing outside of California, will relieve Respondent of the
13 responsibility to comply with the probationary terms and conditions with the exception of this
14 condition and the following terms and conditions of probation: Obey All Laws; General
15 Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
16 Controlled Substances; and Biological Fluid Testing.

17 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
18 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar
19 days prior to the completion of probation. Upon successful completion of probation,
20 Respondent's certificate shall be fully restored.

21 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
22 of probation is a violation of probation. If Respondent violates probation in any respect, the
23 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
24 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
25 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
26 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
27 the matter is final.

15. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Sharon Barclay Kime. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: May 22, 2017 Lorette Marie Labataille, M.D.
LORETTE MARIE LABATAILLE, M.D.
Respondent

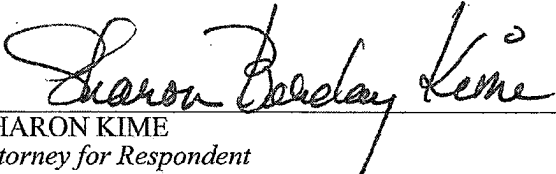
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1 I have read and fully discussed with Respondent Lorette Marie Labataille, M.D. the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4
5 DATED: 5.25.17


SHARON KIME
Attorney for Respondent

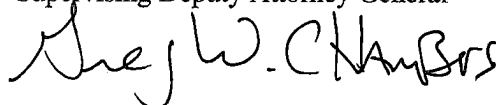
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Medical Board of California.

11 Dated: 5/26/2017

Respectfully submitted,

13 XAVIER BECERRA
Attorney General of California
14 JANE ZACK SIMON
Supervising Deputy Attorney General



16 GREG W. CHAMBERS
17 Deputy Attorney General
18 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2015-011256

1 KAMALA D. HARRIS
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2 JANE ZACK SIMON
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 30 2016
BY: *[Signature]* ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2015-011256

LORETTE MARIE LABATAILLE, M.D.
Redwood Psychalliance Inc.
1101 College Avenue Suite 230
SANTA ROSA, CA 95404

ACCUSATION

PHYSICIAN'S AND SURGEON'S CERTIFICATE NO.
G24040

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On February 16, 1973, the Medical Board of California issued Physician's and Surgeon's Certificate Number G24040 to Lorette Marie Labataille, M.D. (Respondent). Said certificate is renewed and current, and, unless renewed, will expire on November 30, 2016.

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1 management care.

2 5. Over this period of time, Respondent prescribed various medications, including
3 lorazepam², alprazolam³, lurasidone⁴ to reduce anxiety and “ensure better sleep,” and
4 desvenlafaxine⁵. In September 2011, M.F. told Respondent she injured her arm in a fall and was
5 receiving Vicodin⁶ for pain. Respondent, without any documented reason, also prescribed
6 Vicodin “for short period.” In September 2011, Respondent added Adderall⁷, apparently to
7 combat fatigue and as an antidepressant.

8 6. During the summer of 2011, M.F. reported that her husband was accepting a new
9 job and that they would move to Colorado in October. Although Respondent repeatedly
10 documented M.F.’s complicated and stressful preparation for and anxiety over the upcoming
11 move, there is no indication in her records that she discussed a transfer of care or took any steps
12 to assist M.F. in finding a new mental health provider in Colorado. Respondent’s October 6,
13 2011 plan was “continue psychotherapy until it’s time for her to leave for Colorado.”
14 Respondent’s final in-person session with M.F. was on October 27, 2011, when Respondent
15 noted for the first time that she “strongly advised her to get therapist in Colorado...Will be
16 available for telephone appointments.”

17 7. After M.F.’s move to Colorado, from November 2011 through August 2014
18 Respondent continued to treat M.F., through weekly telephone sessions. M.F. reported increased
19 depression, low mood, helplessness and isolation. She requested refills of her prescriptions,
20 having “found a pharmacy that will accept my CA prescriptions.” At some point, Respondent

21 ² Lorazepam, known as Ativan, is a benzodiazepine used in the management of anxiety
22 disorder for short-term relief from symptoms of anxiety or anxiety associated with depressive
23 symptoms.

24 ³ Alprazolam, known as Xanax, is a benzodiazepine use to manage anxiety disorders or
25 for short term relief of symptoms of anxiety.

26 ⁴ Lurasidone, known as Latuda, is an antipsychotic medicine typically used to treat
27 schizophrenia and episodes of depression associated with bipolar disorder.

28 ⁵ Desvenlafaxine, known as Pristiq, is an antidepressant in the selective serotonin and
norepinephrine reuptake inhibitor class. It is used to treat major depressive disorder.

⁶ Vicodin is a combination of hydrocodone bitartrate and acetaminophen. It is an opioid
narcotic used to treat pain.

⁷ Adderall is a trade name for a combination of amphetamine and dextroamphetamine. It
is used to treat narcolepsy and attention deficit hyperactivity disorder.

1 added Post Traumatic Stress Disorder to M.F.'s diagnosis, based, apparently, on M.F.'s report of
2 an emotionally difficult childhood and marriage.

3 8. Beginning in May 2012, M.F. began to complain of nasal congestion and
4 discharge and indicated she was seeing a primary care physician. M.F. became consumed with
5 her symptoms, and over the ensuing months and years, sought treatment from numerous ear, nose
6 and throat specialists in Colorado, as well as other medical providers, including an acupuncturist.
7 Respondent's medical record repeatedly noted M.F.'s obsession with her symptoms, and the fact
8 that no physician or other provider had rendered any diagnosis. By June 2013, Respondent
9 documented that M.F. had purchased petri dishes and was using a "bathroom lab" to grow
10 "cultures" from her nasal discharge. On September 27, 2013, Respondent documented, "This is
11 very difficult to manage psychiatrically. It could be that she has an infection deep in her sinuses
12 that no one has discovered or as DSMIV describes: 'An undifferentiated somatoform D/O' . . .
13 She seems unable to use me for the support she needs, but if I withdraw from treatment it could
14 be a devastating loss and she could become suicidal. She refuses to see a therapist." By
15 November 2013, M.F. was taking unidentified and unprescribed "supplements" purchased on-
16 line. She began to make her own supplements, but refused to state what was in them.
17 Respondent charted her concern that M.F. could harm herself, and a recognition that M.F.'s
18 reported symptoms and complaints were psychiatric and not medical in nature. Respondent
19 continued to provide psychiatric treatment to M.F. by telephone throughout 2013 and well into
20 2014.

21 9. Although Respondent's record contains several notations regarding M.F.'s
22 "refusal" to see a therapist in Colorado, she never contacted any of the health practitioners who
23 were treating M.F. in Colorado, and took no affirmative steps to effectuate a transfer of care.

24 10. Respondent's last communication with M.F. was a telephone session on August
25 22, 2014⁸. On August 29, 2014, Respondent received a "garbled" voice mail message from M.F.,

26 ⁸ Respondent contends her last treatment of M.F. was August 22, 2014. However, her
27 medical records contain several chart notes dated in 2015. Respondent stated during her Board
28 interview that when records were requested, "a lot of dates" were missing, so they were added by
office staff.

1 cancelling her appointments without explanation. Although she had no further contact with M.F.
2 after that date, pharmacy records demonstrate that Respondent continued to prescribe
3 medications, including trazadone, Pristiq and Adderall until December 2014.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct/Gross Negligence/Negligence Acts/Incompetence)

6 11. Respondent is subject to discipline pursuant to Business and Professions Code
7 sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
8 [repeated negligent acts], and/or 2234(d) [incompetence] as follows:

9 A. Respondent elected to provide telephone psychiatry services to Patient M.F.
10 without a clear plan before or after M.F.'s move to Colorado, and without making a plan for
11 transfer of care to a local provider.

12 B. Respondent continued to provide telephone psychiatric treatment to M.F. for three
13 years, long after it was clear that she could not adequately treat her psychiatrically
14 decompensating patient and even when she noted her concern that M.F. might harm herself.

15 C. Respondent failed to understand, evaluate and respond to the complexity of M.F.'s
16 psychiatric illness.

17 D. Respondent failed to contact or coordinate with any of the multiple health care
18 providers who were providing treatment to M.F. in Colorado.

19 E. Respondent failed to take affirmative steps to refer M.F. to a local mental health
20 provider when it was clear M.F. required a higher level of care than Respondent could provide.

21 F. Respondent continued to prescribe benzodiazepines, antidepressants,
22 psychostimulants and even a narcotic pain medication without seeing her patient, and in the face
23 of an apparent psychotic illness.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Unprofessional Conduct/Gross Negligence/Repeated Negligent Acts/Incompetence/Clearly
26 Excessive Prescribing/Prescribing Without Appropriate Prior Exam or Indication)

27 12. Respondent is subject to discipline pursuant to Business and Professions Code
28 sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)

1 [repeated negligent acts], and/or 2234(d) [incompetence] and/or 725 [clearly excessive
2 prescribing], and/or 2242 [prescribing without an appropriate prior examination or indication] as
3 follows:

4 A. Respondent prescribed the sedative-hypnotics trazodone and temazepam to M.F.
5 for complaints of insomnia without obtaining an adequate medical or sleep history or evaluation,
6 and without an attempt at behavioral therapy, non-pharmacologic methods for sleep or a trial of a
7 nonbenzodiazepine agent, and without consultation with other prescribers and providers, or
8 awareness of what other substances her patient was taking.

9 B. Respondent prescribed Adderall to treat M.F.'s purported sleep disorder, without
10 adequate evaluation or assessment, and without medical indication.

11 C. Respondent treated M.F.'s depression and anxiety with a standard antidepressant
12 (Pristiq) along with two benzodiazepines at the same time, Xanax and lorazepam, and without an
13 understanding of the medications prescribed and their potential interactions and effectiveness.

14 D. Respondent diagnosed M.F. with Post Traumatic Stress Disorder, and prescribed
15 medication to treat that condition, without explanation or rationale, and without a medical or
16 clinical basis.

17 E. Respondent prescribed Adderall to combat M.F.'s complaints of fatigue, without
18 adequate evaluation or workup, and in the absence of any apparent consideration of the patient's
19 use of opioids and various unknown supplements.

20 F. Respondent prescribed a narcotic pain medication to treat a reported arm injury,
21 without examining the patient, and with knowledge that another physician was prescribing the
22 same medication to M.F.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board issue a decision:

26 1. Revoking or suspending Physician's and Surgeon's Certificate Number G24040
27 issued to Lorette Marie Labataille, M.D. and ordering Respondent to pay probation costs in the
28 event that she is placed on probation;

- 1 2. Revoking, suspending, or denying approval of Respondent's authority to supervise
2 physician assistants; and
3 3. Taking such other and further action as deemed necessary and proper.
4

5 Dated: September 20, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California